IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

PETITION NO. 4 OF 2007.

Re : Prabhudayal Beniprasad Chamaria & Ors. .... Debtors.

Ex-parte :
SICOM LTD., ... Petitioning Creditors.

Mr. P. V. Shah, Advocate for the Petitioning Creditor.

CORAM : A.M.KHANWILKAR J.
NOVEMBER 26, 2007.

P. C.

1. The present Petition is founded on the decree passed by the Court against the debtors on 25th April 2005 in Miscellaneous Petition No. 60 of 2000. As the debtors failed to pay the amount, Insolvency Notice No. N-105 of 2006 dated 20th June 2006 was issued, which was duly served on the debtors on 17th July 2006 by substituted service.

2. Subsequent thereto Debtors took out Notice of Motion No. 140 of 2006 for setting aside the aforesaid Insolvency Notice No.N-105 of 2006, which was dismissed by an order dated 7th November 2006. Inspite thereof debtors failed to pay the decretal amount. In that sense, act of insolvency was completed on 7th November, 2006.

2. As the debtors failed to pay the amount or offer any explanation for non-payment, Petitioning Creditors had no option but to take out the present action, which has been filed on 11th January 2007. The debtors have been duly served on 22nd March 2007 with substituted notice in the present action, (as per the liberty given to the Petitioning creditors to effect service by substituted mode). Inspite of such service, none appears for the debtors. No reply has been filed. As no explanation has been offered on behalf of the debtors, Petition ought to succeed in terms of prayer clauses (a), and (b).

(a) an order of adjudication of Insolvency, may be made by this Hon'ble Court against the Debtors ;

(b) for costs.

Ordered accordingly.

A. M. KHANWILKAR, J.